

05 10607 JLT

AO 243
REV 6/82MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District DISTRICT COURT DISTRICT OF MASSACHUSETTS - BOSTON
Name of Movant Michael Eideh	Prisoner No. 23457-038	Docket No. 1:05-cr-00021-SLT-ALL
Place of Confinement FBI FAIRTON FAIRTON NJ 08390, PO Box 420		(include name upon which convicted)
UNITED STATES OF AMERICA		v. Michael Eideh (full name of movant)

MOTION

- Name and location of court which entered the judgment of conviction under attack United States
DISTRICT COURT DISTRICT OF MASSACHUSETTS - BOSTON
- Date of judgment of conviction 12-17-2002
- Length of sentence 6 yrs committed, 4 yrs supervised release
- Nature of offense involved (all counts) 1 count conspiracy to obtain
with intent to distribute cocaine/case

5. What was your plea? (Check one)

(a) Not guilty ☐

(b) Guilty ☒

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

ENTERED GUILTY PLEA TO A MAX OF FIVE YR SENTENCE
AFTER PSI MY TIME WENT UP TO 15 1/2 YRS

6. Kind of trial: (Check one) NA

(a) Jury ☐

(b) Judge only ☐

7. Did you testify at the trial? NA

Yes ☐ No ☐

8. Did you appeal from the judgment of conviction? NA

Yes ☐ No ☐

PROSECUTOR THEODORE HARRIS JR

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(a) Name of court _____

(b) Result _____

(c) Date of result _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒11. If your answer to 10 was "yes," give the following information: NA

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒ NA

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information: NA

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐ *NA*

(5) Result _____

(6) Date of result _____

(c) As to any third petition, application or motion, give the same information: *NA*

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐ *NA*

(5) Result _____

(6) Date of Result _____

(d) Did you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐ *NA*(2) Second petition, etc. Yes ☐ No ☐(3) Third petition, etc. Yes ☐ No ☐

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: (E) Violation ~~of~~ of the privilege
Against SELF incrimination

Supporting FACTS (tell your story briefly without citing cases or law): The COURT
was granted an INDICEMENT charging that
I said something on the phone in which
I DISCRIMINATED MY SELF. DRUGS WERE NEVER
FOUND OR MENTIONED ON PHONE.

B. Ground two: (J) Denial of right of appeal

Supporting FACTS (tell your story briefly without citing cases or law): My ORIGINAL
plea was with FIRST prosecutor Cherrick KRISHNAN
BUT when new prosecutor Theodore HARRIS so
TOOK case HE CHANGED MY LENGTH OF TIME
AT WHICH I COULD NOT TAKE BACK MY
plea

C. Ground three: past criminal record.

Supporting FACTS (tell your story briefly without citing cases or law): My past
record brought my length of length
of sentence to a career criminal which
is way ABOVE my plea agreement. IN TURN
I WAS FORCED TO ACCEPT A WHAT EVER
SENTENCE JUDGE IMPOSED.

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_____Supporting FACTS (tell your story *briefly* without citing cases or law): _____

_____13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____
_____N/A

_____14. Do you have any petition or appeal now pending in any court as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing MATT FEINBERG 125 SUMMER ST. BOSTONMA(b) At arraignment and plea MATT FEINBERG 125 SUMMER ST. BOSTON MA(c) At trial _____
_____(d) At sentencing MATT FEINBERG 125 SUMMER ST. BOSTON MA

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(e) On appeal _____

(f) In any post-conviction proceeding MATT FEINBERG 125 SUMNER ST. BOSTON M.A.

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

FEB, 18 2005
(date)
Signature of Movant